

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**5231 BLANCO LLC, SANTA FE
APARTMENTS,**

Plaintiffs,

v.

**MID-CENTURY INSURANCE
COMPANY,**

Defendant

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CIVIL ACTION NO. 5:17-CV-971

DEFENDANT MID-CENTURY INSURANCE COMPANY'S NOTICE OF REMOVAL

Defendant Mid-Century Insurance Company ("Mid-Century"), incorrectly named Mid-Century Insurance Company of Texas in Plaintiff's Original Petition, files this Notice of Removal.

PROCEDURAL BACKGROUND

1. Plaintiffs 5231 Blanco LLC and Santa Fe Apartments filed this action on August 22, 2017, against Mid-Century in the 225th Judicial District Court of Bexar County, Texas. That case was docketed under cause number 2017CI15735 (the "State Court Action").
2. Mid-Century was served with process on September 1, 2017.
3. Mid-Century files this Notice of Removal pursuant to 28 U.S.C. §1446 to remove the State Court Action from the 225th Judicial District Court of Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division.
4. Plaintiff's Original Petition in the State Court Action included a jury demand.

NATURE OF THE SUIT

5. This lawsuit involves a dispute over the alleged non-payment of insurance benefits and the handling of Plaintiffs' claim for damages allegedly caused by a storm "during the terms of said Policy." Petition at ¶ IV. Plaintiff asserts causes of action against Mid-Century for breach of contract, violations of Chapters 541 and 542 of the Texas Insurance Code, and breach of the duty of good faith and fair dealing.

BASIS FOR REMOVAL

6. The Court has jurisdiction over this action under 28 U.S.C. §1332 because there is and was complete diversity between all real parties in interest (Plaintiffs and Mid-Century) and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

a. Plaintiffs' Citizenship

7. The citizenship of a limited liability company is determined by the citizenship of each member of the entity.¹

8. According to records on file with the Texas Secretary of State, all of Plaintiffs' members are citizens of Texas and/or Illinois.

9. According to Plaintiff's Original Petition, Plaintiffs "are doing business in Bexar County." Petition at ¶ II. Plaintiffs have not pled any other facts of citizenship. Absent the same, Plaintiff's citizenship at the time of filing suit and removal is properly established as the State of Texas and the State of Illinois.

b. Mid-Century's Citizenship

10. A corporation is a "citizen of every State by which it has been incorporated and of the State where it has its principal place of business[.]"²

¹ See *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008).

11. Defendant Mid-Century is incorporated in California and has its principal place of business in California. Thus, Mid-Century's citizenship at the time of filing suit and removal is properly established as the State of California.

c. Amount in Controversy

12. Plaintiff's Original Petition expressly alleges damages in excess of \$1,000,000, satisfying the "amount in controversy" requirement of 28 U.S.C. §1332(a). Petition at ¶¶ XI.

REMOVAL IS PROCEDURALLY CORRECT

13. This Notice of Removal is timely under 28 U.S.C. §1446(b). Mid-Century was served with process on September 1, 2017.

14. Venue is proper in this division under 28 U.S.C. §1441(a) because this district and division embrace the place in which the removed action has been pending.

15. In accordance with 28 U.S.C. §1446(a), copies of all process, pleadings and orders served upon Mid-Century in the State Court Action are indexed in Exhibit A and attached in Exhibit B.

16. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will promptly be given to all parties and to the clerk of the 225th Judicial District Court of Bexar County, Texas.

PRAYER

Defendant Mid-Century Insurance Company respectfully requests that the State Court Action be removed and placed on this Court's docket for further proceedings, and for all other and further relief to which Defendant Mid-Century Insurance Company may show itself justly entitled both in law and at equity.

² 28 U.S.C. §1332(c)(1).

Respectfully submitted,

By: 

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**ATTORNEY-IN-CHARGE FOR
DEFENDANT MID-CENTURY
INSURANCE COMPANY**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was duly served upon all parties through counsel of record on September 29, 2017, as follows:

Shannon E. Loyd
THE LOYD LAW FIRM, P.L.L.C.
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Attorney for Plaintiffs 5231 Blanco LLC, Santa Fe Apartments
Via Electronic Service



Jose "JJ" Treviño, Jr.